



Office of the Attorney General

State of Texas

July 23, 1992

DAN MORALES

ATTORNEY GENERAL

Ms. Lena Guerrero
Chairman
Railroad Commission of Texas
Capitol Station, P.O. Box 12967
Austin, Texas 78711-2967

OR92-427

Dear Ms. Guerrero:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16550.

The Railroad Commission of Texas (the "commission") received an open records request asking for a copy of a complaint made about the requestor's liquid-propane gas (LP gas) tank. Because the complainant made the complaint by telephone rather than in writing, you provided the requestor with a copy of the first page of the "Telephone and Conversation Record." This page summarizes a portion of the conversation between Thomas Petru, the director of the commission's LP gas division, and the complainant, who alleged that the requestor's LP gas tank was not in compliance with the commission's safety rules. However, before providing this document to the requestor, you removed all identifying information about the complainant and information about unrelated allegations. After receiving this document, the requestor sent you an additional request for information, which we interpret as asking for a copy of the entire memorandum regarding the telephone conversation between Mr. Petru and the complainant including the information identifying the complainant.


You claim that the informer's privilege recognized under section 3(a)(1) of the Open Records Act excepts from disclosure the information identifying the complainant. We agree. Section 3(a)(1) protects from disclosure the identity of persons who report possible violations of the law to the officials charged with enforcing that law. Open Records Decision No. 434 (1986) at 1. For the purposes of the informer's privilege, possible violations of the law include violations of statutes with either civil or criminal penalties. Open Records Decision No. 515

(1988) at 2. The commission is the agency charged with administering and enforcing the laws and rules relating to LP gas. Nat. Res. Code § 113.012. Violations of these laws and rules carry with them the possibility of criminal penalties. *See id.* §§113.232, 113.235, 113.236. Therefore, the informer's privilege applies to the identity of the complainant in this case, and the identity of the complainant is exempted from disclosure.

You do not claim, however, that any other parts of the "Telephone and Conversation Record" are exempt from disclosure. Thus, because we read the requestor's second letter as asking for the entire "Telephone and Conversation Record," we also conclude that the requestor is entitled to receive both pages you submitted to us, with the complainant's name and telephone number deleted.

Since case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-427.

Yours very truly,


Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

MAR/KKO/lmm

Ref.: ID# 16550

cc: Mr. J. L. Sutton
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